

Exhibit 7

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April 27, 2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HASSAN CHUNN; NEHEMIAH McBRIDE; AYMAN RABADI,
by his Next Friend MIGDALIZ QUINONES; JUSTIN
RODRIGUEZ, by his Next Friend JACKLYN ROMANOFF;
ELODIA LOPEZ; and JAMES HAIR, individually and on
behalf of all others similarly situated,

Petitioners(s),

Civil Action No.
20 Civ 1590

-against-

WARDEN DEREK EDGE,

Respondent(s).

-----x

April 27, 2020
12:32 p.m.

VIDEOTAPED and VIDEO CONFERENCED
EXAMINATION BEFORE TRIAL of Witness for
Respondent STACEY VASQUEZ, pursuant to Notice,
before Laura B. Lowenthal, a Notary Public within
and for the State of New York.

1 S. Vasquez

2 A Yes.

3 Q Which ones?

4 A Does that make a difference?

5 Q Yes.

6 A I have I think three nurses that speak
7 Spanish and a doctor who speaks some Spanish.

8 Q How long does a screening take on one
9 of these units?

10 A About an hour probably.

11 Q It takes an hour to get through all of
12 the people on the unit?

13 A At minimum.

14 Q If I told you that there are 124
15 people on the unit does that sound right to you?

16 A Sure.

17 Q When can a unit be removed from
18 quarantine?

19 A As long as no one has had symptoms for
20 14 days.

21 Q How is that monitored?

22 A By performing twice daily temperature
23 and wellness checks.

24 Q Prisoners on these units are not asked
25 specifically if they have any COVID symptoms?

1 S. Vasquez

2 Q Tell me then.

3 A They would have gone into our intake
4 unit as normal.

5 Q How long would they have stayed there?

6 A I don't know. Typically it's a week
7 to two weeks.

8 Q We were a few minutes ago talking
9 about the screening of people twice a day
10 screening of people in quarantine.

11 I want to ask you about screening of
12 people in general population housing units.

13 Are people in general population
14 units, by that I mean non isolation, non
15 quarantine, regularly screened for COVID?

16 A No.

17 Q How about in the SHU?

18 A No, we make twice daily rounds in all
19 units.

20 Q Have those rounds continued during
21 COVID?

22 A Yes.

23 Q What happens during those rounds?

24 A Medical stop around, ensure that the
25 inmates are doing well and pass out sick call if

1 S. Vasquez

2 A If they're touching things, yes.

3 Q What in quarantine?

4 A Yes.

5 Q Previously you just told me that you
6 don't know whether people are wearing N-95 masks
7 because you don't see them.

8 How do you know that they're wearing
9 gloves or surgical masks?

10 A Because it is basic medical practice.

11 Q You're basing this your answers on
12 what the policy is and not what you have
13 observed?

14 A Yes.

15 MS. GINSBERG: I would like to take a
16 five minute break.

17 VIDEOGRAPHER: Going off the record
18 at 1:27 p.m.

19 VIDEOGRAPHER: Going back on the
20 record at 1:37 p.m.

21 Q I want to go back one second to the
22 quarantine twice daily screening that go on.

23 When medical staff conducts those
24 screening what do they have with them besides a
25 thermometer, an infrared thermometer?

1 S. Vasquez

2 Q Once they have been tested?

3 A Before they were tested. Before they
4 were tested they would be in isolation unit as
5 soon as they were identified they would be in an
6 isolation unit.

7 Q So I think you said earlier that there
8 have been 13 people total tested; is that
9 correct?

10 A Yes.

11 Q All of them were placed in isolation
12 prior to receiving the COVID test?

13 A Yes.

14 Q You said there were five additional
15 people who were placed in isolation as well?

16 A As a presumed positive, yes.

17 Q Were they all placed in isolation at
18 the same time?

19 A No, that is over a month and a half
20 period.

21 Q They were not all from the same unit
22 at the same time?

23 A No.

24 Q What was the basis for the decision of
25 sending those people into medical isolation?

1 S. Vasquez

2 MR. CHO: Objection to the form. Are
3 you referring to those that are the
4 conflict or the five personnel?

5 MS. GINSBERG: The five.

6 A Symptoms and the confirmed positive
7 tests from that unit.

8 Q Were all of those five people
9 cellmates of people who had been tested for
10 COVID?

11 A None of them were.

12 Q But they were all on units where
13 somebody tested positive?

14 A Same unit.

15 Q All five people were from the same
16 unit?

17 A Yes.

18 Q Were they all sent into medical
19 isolation based on the same individuals who
20 tested positive tests?

21 A Yes.

22 Q What unit was that?

23 A Two individuals were positive test.

24 Q Two individuals were positive test.
25 What unit was that?

1 S. Vasquez

2 isolation or prior to their being in isolation?

3 A I don't remember. It could have been
4 either, it could have been both.

5 Q You're certain you don't remember
6 which unit it was?

7 A No.

8 Q When you did the temperature checks
9 for those individuals from that unknown unit did
10 you speak with those individuals?

11 A In what way?

12 Q In anyway?

13 A I would have performed a wellness
14 check just like any other time I performed
15 temperature checks.

16 Q This was while they were in isolation?

17 A Yes.

18 Q Are there people who have expressed
19 symptoms of COVID who have not been placed in
20 isolation?

21 A Yes.

22 Q Can you tell me when that would happen
23 that a person who expressed COVID symptoms would
24 not be placed in medical isolation?

25 A That is a clinical providers judgment.

1 S. Vasquez

2 Q Do you know how many such people there
3 have been at the MDC?

4 A No.

5 Q Do you know if there have been more
6 than ten?

7 A I wouldn't be able to tell you that.

8 Q Have any asymptomatic individuals been
9 placed in isolation?

10 A No.

11 Q Are you ever in the position of making
12 a determination as to whether someone will be
13 placed in medical isolation?

14 A I make the determination with the
15 provider who assessed them and our acting
16 Clinical Director.

17 Q Aside from -- what you told me so far
18 is that it is a clinical decision.

19 Can you tell me what goes into that
20 clinical decision what factors?

21 A Symptoms, how long the symptoms have
22 lasted, what the severity of the symptoms are.

23 Q Anything else?

24 A Clinical decision is made by the
25 provider.

1 S. Vasquez

2 Q And then but you have seen other
3 people do that or you're aware that other people
4 do that?

5 A Yes.

6 Q Do they also conduct the wellness
7 check through that food slot?

8 A Yes.

9 Q When did the practice of screening
10 isolation two times a day begin?

11 A Around the middle of March.

12 Q What record is made of this screening?

13 A We note temperatures in the bureau
14 electronic medical records.

15 Q Is any other record made?

16 A No.

17 Q Is there a form used?

18 A No.

19 Q Who determined whether to remove
20 someone from medical isolation?

21 A It is based off of the CDC guidance.

22 Q So what criteria are used?

23 A Seven days after onset of symptoms, 72
24 hours after not having -- 72 hours free of fever
25 without an antipyretic such as Tylenol or

1 S. Vasquez

2 COVID at MDC what steps do staff take to try to
3 avoid further infection?

4 A Same steps that we were taking when we
5 isolated the inmate. We are ensuring that we are
6 wearing masks when come in contact with the
7 inmate and opening the door, PPE, appropriate
8 PPE, gowns, gloves, and ensuring the staff know
9 which units have the inmates who have positive
10 COVID in them.

11 Q Do you know what contact tracing is?

12 A I have a vague idea what you're
13 talking about.

14 Q What is your understanding of contact
15 tracing?

16 A I believe you're talking about more
17 like contact investigation.

18 Q Sure.

19 A Basically what you are going to do is
20 you are going to go two days prior to when the
21 person showed symptoms or reported that they
22 showed symptoms and try to notify anybody who had
23 close contact with that individual, close
24 prolonged contact with that individual.

25 Q What does into mean close --

1 S. Vasquez

2 A Close prolonged contact means that you
3 came in close contact without PPE available for I
4 think the guidance was 40 minutes or more.

5 Q If someone is let out of their cell on
6 quarantine or general population unit for the
7 hour that they're now allowed out would those
8 inmates be considered to have close contact with
9 one another?

10 A No.

11 Q Why is that?

12 A Social distancing has been encouraged.
13 They're also suppose to be wearing masks.

14 Q So you presume social distancing?

15 A Presume?

16 Q Yes.

17 A They have been instructed to social
18 distance.

19 Q You presume that they're all complying
20 with that?

21 A Yes.

22 Q For example, if two people sit next to
23 one another at computers that is considered
24 social distancing?

25 A If an inmate in a unit came up

1 S. Vasquez

2 positive the whole unit would be quarantined.

3 Q Okay. But those people would not be
4 isolated?

5 A No, not unless they showed symptoms.
6 Just the same as a person cellmate would not be
7 isolated unless he showed symptoms.

8 Q No asymptomatic people are going to be
9 isolated.

10 And so everyone is considered a close
11 contact then if they're on the unit or no?

12 A We practice out of an abundance of
13 caution.

14 Q So we would consider them close
15 contact?

16 A No, but we are going to quarantine the
17 whole unit to make sure that no one touched
18 something that may have given it to them.

19 Q What steps are taken to determine who
20 the close contacts are?

21 A Right now close contact is typically
22 the inmate's cellmate.

23 Q Would it be anybody else?

24 A No.

25 Q Why not?

1 S. Vasquez

2 A They're locked in their cells.

3 Q But for an hour a day they're not?

4 A And they're not suppose -- they are
5 suppose to be social distancing and wearing masks
6 when they're out of their cells.

7 Q Because there is a rule that requires
8 social distancing and wearing a mask there is a
9 presumption that none of those people are in
10 close contact?

11 A No, the whole unit is going to be
12 quarantine.

13 Q I am trying to understand who would be
14 considered a close contact for any purpose
15 though?

16 A What is the purpose of determining the
17 close contact.

18 Q I get to ask the questions.

19 A Okay.

20 MR. CHO: Again, objection to the
21 form. Asked and answered multiple
22 times. She already answered that
23 question.

24 MS. GINSBERG: I don't think I got an
25 answer so I wanted to continue.

1 S. Vasquez

2 MR. CHO: You did though.

3 MS. GINSBERG: There is a question
4 pending.

5 MR. CHO: I don't think I remember
6 the question.

7 (Whereby, the requested portion was
8 read back by the reporter.)

9 MR. CHO: Asked and answered. You can
10 answer it again.

11 A Inmate's cellmate.

12 Q Anybody else?

13 A No.

14 Q Is it possible that any staff member
15 would be considered a close contact?

16 A No.

17 Q When a prisoner tests positive are
18 there staff who are responsible for interviewing
19 people to find out more about those contacts?

20 A Yes.

21 Q Who are those staff members?

22 A Infectious disease nurses.

23 Q How many infectious disease nurses are
24 on staff on MDC?

25 A Two.

1 S. Vasquez

2 been tested positive.

3 Q Anything other than isolation
4 quarantine and positive tests?

5 A I think there is another one but I
6 can't remember.

7 Q So this system is not tracking
8 complaints of symptoms?

9 A No, the bureau electronic medical
10 record would track that.

11 Q You had mentioned earlier in your
12 testimony that you put together Daily Reports on
13 COVID; is that correct?

14 A Yes.

15 Q Can you tell me what those reports
16 consist of?

17 A Every name of an inmate on a
18 quarantine unit, names of inmates that are
19 isolated, when they were isolated, when they were
20 tested, when they came off isolation, if they
21 come off quarantine.

22 Q Anything else that goes into those
23 reports?

24 A What unit they were in.

25 Q Does anything about reporting a COVID

1 S. Vasquez

2 symptom go into that report?

3 A No.

4 Q Who does that report -- who authors
5 that report?

6 A I do.

7 Q Who is it sent to?

8 A It was originally being sent to the
9 Central Office health office administration but
10 they -- they're tracking it by century codes now
11 so now it's only sent to my warden, my associate
12 warden and my executive assistant and my legal
13 counsel.

14 Q Is it only Daily Reports or are there
15 other reports that get done like weekly reports
16 and monthly reports?

17 A I do Daily Reports.

18 Q Daily Reports?

19 A Yes.

20 Q Do staff sometimes move between
21 quarantine and non quarantine sections of the
22 MDC?

23 A Yes.

24 Q Custody staff?

25 A I don't track custody's movement but I

1 S. Vasquez

2 have seen them move, yes.

3 Q What about medical staff?

4 A Yes.

5 Q Do custody staff also move between
6 isolation units and other sections of the MDC?

7 A Yes.

8 Q Medical staff too?

9 A Yes.

10 Q Is there anyone who monitors staff
11 conduct to ensure that when they are transferring
12 between units with known or suspected cases in
13 other units that they're in compliance with
14 appropriate infectious disease protocol?

15 A No one monitors that, no.

16 Q Are staff members allowed to use
17 alcohol based hand sanitizer?

18 A Yes.

19 Q As of when?

20 A I couldn't give you a date.

21 Q Has it been for more than a week?

22 A Yes.

23 Q How does staff know they're allowed to
24 do this?

25 A That is not my job.

1 S. Vasquez

2 factors plus having been on a unit without a
3 positive test?

4 A Those are the most quantifiable
5 symptoms for it.

6 Q Is there anything in writing that
7 plays out the MDC's criteria for performing a
8 COVID test?

9 A That is a clinical decision made at
10 the institutional level.

11 Q Is that a no?

12 A No.

13 Q I want to draw your attention to one
14 more Exhibit. It is Exhibit 11.

15 Strike that. I am not going to go
16 through this. Sorry to get it out and make you
17 put it away.

18 Do you know who Lieutenant Commander
19 Jordan is?

20 A Yes, she works for me.

21 Q Can you tell me what her position is?

22 A She is the IOP IDC -- she is an
23 infectious disease person.

24 Q This is the person who we spoke of
25 earlier who we referred to as Nurse Jordan;

1 S. Vasquez

2 A Yes, which is why we are -- we strive
3 to ensure we get a normal temperature reading
4 from the staff.

5 Q How do you do that?

6 A By either having them stand by while
7 they warm up or if they're willing to show us
8 their necks which is a bit warmer we will take it
9 there as well.

10 Q If somebody comes in and their
11 temperature reads 98.7 the assumption is that is
12 a normal temperature and that it is not lowered
13 because of the air temperature?

14 A Correct.

15 Q Are staff when they're screened
16 through this process asked about contact with
17 COVID positive people?

18 A No.

19 Q Are they asked about contact with
20 presumed positive people?

21 A No.

22 Q Are you aware that the CDC recommends
23 that staff who are identified as a close contact
24 of a COVID-19 case at the facility or in the
25 community should several quarantine at home for

1 S. Vasquez

2 Q Yes.

3 A No, if they are showing other symptoms
4 we can deny them for that too but that is an
5 automatic denial.

6 Q So they must deny them if they're
7 showing symptoms?

8 A Yes, if they have a temperature.

9 Q I misspoke.

10 A If they have a temperature they're
11 done. They are not even going to ask about
12 symptoms. They're going to go home.

13 Q What procedures are followed if they
14 answer yes to any of the three questions in
15 section two which are new onset cough, new onset
16 trouble speaking because of needing to take a
17 breath and stuffy runny nose?

18 A The on duty doctor is going to be on
19 called and they are will make that clinical
20 decision.

21 Q Other than fever there is no
22 particular symptoms that would automatically bar
23 someone from entering the building?

24 A Not necessarily.

25 Q After this form is completed what

1 S. Vasquez

2 Q Chest pain would get assessed more
3 quickly but otherwise the non, the sick call
4 request that medical staff considered to be non
5 emergent are typically being addressed more than
6 14 days after they're entered into the system?

7 A Two and a half weeks is I think what
8 it is average right now.

9 Q What are considered to be emergent
10 request?

11 A Shortness of breath, COVID like
12 symptoms obviously, chest pain, I broke something
13 a bone, something like that. That would be --
14 typically we are not even going to get a sick
15 call on that. We will get a call from an unit
16 officer.

17 Q What about just a fever?

18 A A fever would be COVID like system
19 that would be assessed immediately.

20 Q How quickly?

21 A Immediately.

22 Q The same day?

23 A Yes.

24 Q What about a cough?

25 A Cough we have tried to assess the same

1 S. Vasquez

2 day as well.

3 Q What about loss of sense or taste?

4 A Not quantifiable.

5 Q What do you mean by that?

6 A Other than someone reporting that how
7 do you quantify that this is going on.

8 Q I mean when would like would that be
9 considered an emergent request right now?

10 A No.

11 Q It would go into sort of regular two
12 and a half week file?

13 A Yes.

14 Q Do you know why the paper sick call
15 slips were shredded and not placed into medical
16 records?

17 A Routine practice we don't typically we
18 don't scan in the electronic copouts either.

19 Q Is there a way to put a paper a piece
20 of paper into a BOP medical record?

21 A Yes.

22 Q How do you do that; just scan it?

23 A You can scan it in but we are also not
24 going to scan documents and prolong retention of
25 documents that could infected with COVID-19.

1 S. Vasquez

2 Q So you think that --

3 A Someone can have complications that
4 are not on that list too.

5 Q What do you mean by that?

6 A This disease is -- I am not currently
7 working in a hospital but tracking it it's not
8 just killing old sick people, it is killing young
9 people at times too that don't have the risk
10 factors.

11 We monitor every inmate that has this
12 or we think has this and we ensure that their
13 health and safety while they're with us we send
14 them out to a local hospital if we needed to and
15 we couldn't manage them in house.

16 Q Is MDC taking any steps to protect
17 this group above what it is doing for the overall
18 population of MDC?

19 A No, because all of our inmates health
20 and safety are important. We are treating them
21 all that they're high risk and we are giving them
22 all masks and encouraging them to social distance
23 and locking them in to try to prevent the spread
24 if it is.

25 Q These individuals are not provided

1 S. Vasquez

2 additional screening?

3 MR. CHO: Objection to the form.

4 A No, and there is no guidance to
5 additionally screen them.

6 Q Is any of them single cell based on
7 their risk factors?

8 MR. CHO: Objection to the form.

9 A No.

10 Q Are they as a group isolated in
11 anyway?

12 A No.

13 Q I want to direct your attention to
14 Exhibit 20.

15 A I am there.

16 Q So what you should have before you
17 that is marked as Exhibit 20 is a letter from the
18 warden that MDC that was previously filed in a
19 criminal case United States versus Nick Conga; is
20 that what you see before you?

21 MR. CHO: We have that letter dated
22 marked 18. It is regarding MDC New
23 York and MDC Brooklyn overnight case.
24 Is that what you're referring to?

25 MS. GINSBERG: Yes.

1 S. Vasquez

2 MR. CHO: The records are from Noelle.

3 Q In this letter from March 18 it states
4 "MDC Brooklyn has not isolated its at risk
5 population at this time because the number of
6 inmates who fall into this category is too large
7 to contain and isolate on one or even two units."

8 Is it correct that the group is too
9 large to isolate?

10 A Yes.

11 Q Do you agree with the warden as to the
12 reason as to why MDC is not isolating these
13 people?

14 MR. CHO: Objection to form.

15 A Yes.

16 Q The reason is in fact because there is
17 too many of them?

18 A Yes.

19 Q Are you the person who or I guess you
20 and Nurse Jordan are both responsible for
21 overseeing this list?

22 MR. CHO: Objection to the form.

23 A Yes, I manage Jordan so yes.

24 Q Of the six people who were tested as
25 positive for COVID at the MDC have any of them

1 S. Vasquez

2 been released from custody?

3 A I wouldn't be able to tell you that.

4 Q Do you know if any of them has been
5 released?

6 A Again, I wouldn't be able to tell you
7 that.

8 Q You don't know?

9 A I don't know.

10 Q Do you know if any of them has died?

11 A Not that I am aware of.

12 MS. GINSBERG: James, I want to take
13 ten minutes.

14 VIDEOGRAPHER: Going off the record
15 5:31 p.m.

16 VIDEOGRAPHER: Going on the record
17 5:45 p.m.

18 Q So I just want to clarify one thing I
19 think what you said about general population was
20 that COVID screening, daily COVID screening, is
21 not happening in those units?

22 A No, they have to access to twice daily
23 medical rounds and there is no guidance put down
24 by Central Office to screen inmates every day
25 that aren't on quarantine or isolation.

1 S. Vasquez

2 Q I want to turn your attention to the
3 document that is marked Exhibit 30. Are you
4 there?

5 A Yes.

6 Q So this is a document that is called
7 correcting misinformation about BOP and COVID-19;
8 is that what you're looking at?

9 A Yes.

10 Q There is no in page numbers on this
11 document but I want to turn your attention to the
12 first page and in the first page it says that
13 "Health Services staff throughout the BOP are
14 conducting rounds and checking inmate temperature
15 at least once a day. Those locations where
16 inmates are in quarantine or isolation health
17 services staff are conducting rounds and
18 temperature checks twice a day."

19 So consistent with what you told me
20 those twice a day checks in quarantine and
21 isolation are happening; right?

22 A Yes.

23 Q But there are not at least once a day
24 checks happening elsewhere; correct?

25 A That would not be guidance put down by

1 S. Vasquez

2 Central Office to the health care staff. I do
3 not know who wrote this. It was probably someone
4 in Central Office but that has not been guidance
5 put down to the Health Services unit.

6 Q We have talked a little --

7 A The myth is that prisoners fearing
8 they may be abandoned in a isolation cell. It
9 doesn't talk about general population anywhere in
10 that?

11 Q Well what it says is that they fear
12 being abandoned in an isolation cell and left for
13 dead so they're not reporting symptoms?

14 A It contradict itself.

15 Q We have certainly been hearing those
16 kinds of stories.

17 Anyway, I want to ask you a little bit
18 more about some of the things that the Health
19 Services staff is doing in addition to the COVID
20 screening on top of it is typical Health Services
21 duties.

22 Are health services staff currently
23 now involved in reviewing compassionate release
24 applications?

25 A Yes.